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THE SOURCES OF MEDIEVAL POLITICAL THEORY
AND ITS CONNECTION WITH MEDIEVAL
POLITICS¹

It is probably true to say, that to-day, after a century of serious historical study, the great majority of even educated people still think of the Middle Ages as a period when men were governed by strange and fantastic conceptions. It may indeed be doubted whether the progress of a real knowledge of the Middle Ages has been hindered more by the stupid and ignorant obscurantism of the Renaissance and the New Learning, or by the rather fatuous enthusiasm of the Romantic movement. For if the former treated medieval civilization as simply barbaric and irrational, the latter mistook the ridiculous play-acting of the first Gothic revival in the fourteenth and fifteenth centuries, with its grotesque orders of chivalry, for the genuine medieval world. No doubt we shall always have to give their due weight to aspects of medieval life which in the end were found impracticable, which could not be brought into line with the actual development of the civilization of the modern world, but I venture to think a great deal too much has been made of them, that we have tended to mistake some impracticable ideas of the Middle Ages for their real and governing principles.

This is notably the case with the conception of a universal empire, but not less with the conception of the supremacy of the spiritual over the temporal power. We can without difficulty recognize in the first, not only the survival of the tradition of the ancient empire, but a form of the perpetual aspiration to make real the dream of the universal commonwealth of humanity. We can all recognize without any difficulty that behind the impossible con-

¹ A paper read at the International Congress of Historical Studies, London, April, 1913.

ception of a papal supremacy over the Empire, there did lie the fundamental principle that the economic as well as the political methods of society must be controlled by the moral and spiritual principles of life. But we must make clear to ourselves that the terms in which these great ideals expressed themselves were not only of passing importance, but that these did not form the really significant elements in the political theory of the Middle Ages, any more than they determined the actual course of medieval politics. It is in the hope that it may be possible to help in directing the study of medieval ideas into its most fruitful channels that I venture to bring forward some observations upon the sources of the political theory of the Middle Ages.

It is obvious to any student of the learned, as distinguished from the artistic, literature of the Middle Ages, that it is to a great degree governed by the writings of the Christian Fathers. Not only in matters of theology, but in every region of thought the writing of the great Fathers exercised a dominant influence. But it is not always sufficiently understood what exactly this means. I do not deal with matters of pure theology, where no doubt the tradition of the Middle Ages is specifically though not exclusively Christian. When we examine the philosophical, and especially the political and social, ideas which are presented under terms supplied by the Fathers, we find that these do not in the first place represent a distinctively Christian tradition, but rather that, quite obviously and clearly, many of these conceptions are those which belonged to the later centuries of the ancient civilization, accommodated no doubt to Christian ideas, and often expressed in Christian phrases, but not, either in their origin or in their essential character, by any means distinctively Christian. And this is wholly natural. The great Fathers were Christian men, but they were also educated men of the Empire and their education was that of the other men of those centuries. No doubt their education differed considerably, as also their individual intellectual capacities, but it was the same education which all alike received. Some of them like Basil and the Cappadocian Fathers were students of first-rate universities such as that of Athens, while others were pupils of inferior schools, but always and everywhere they were primarily educated men of the Graeco-Roman civilization. And therefore it was natural and inevitable that except when the Christian tradition presented them with distinctively Christian conceptions, they should present in their writings the general principles of thought of the society in which they were educated.

We have often been misled by the fact that their mode of thought is very different from that of the great Greek philosophical writers of the fourth century before Christ, but the truth is that, by the first century before Christ, the philosophical conceptions of the ancient world had been in some very fundamental aspects completely changed, and it is the later centuries which the Christian Fathers represent. An inferior philosophy, the critics will say, and that is no doubt true, but not a philosophy to be neglected, for after all, as handed down by the Christian Fathers, it in some respects dominated political theory, not only in the Middle Ages, but till the end of the eighteenth century, and in some points the new social philosophy was actually greatly in advance of the older.

The first source then of the political theory of the Middle Ages is to be found in the philosophy and the commonplaces of the Empire. And if we try to select the most important of the general characteristics of this mode of thought, we shall find it in the distinction between Nature and Convention. To these thinkers, the great institutions of society, such as government, slavery, or property, were not natural, but conventional. They looked upon them as representing not the primitive characteristics of human nature—and to them the primitive was the natural—but as caused by the loss of man's original innocence. It will readily be understood how easily this fitted into the theological tradition of the Fall. Government, slavery, property, represent not the natural or essential characteristics of human nature, but necessary adjustments to its defects. By nature men were equal, and had no authority over each other, by nature men were free, by nature all things were common to all men, and private property was only a method by which organized society endeavored to restrain the intemperate cupidity and greed of men's vicious desires. These are the most fundamental sociological conceptions of the Fathers; they are not specifically Christian, but are the commonplaces of the schools of the Empire. It is these conceptions which furnish the framework of all medieval political theory. Whether we look at the canonists, or the schoolmen, or the civilians, or even the feudal lawyers, it is the contrast between Nature and Convention which meets us everywhere.

It was from the Middle Ages that these conceptions passed into the political and social theory of the Renaissance and the seventeenth and eighteenth centuries. The conceptions of Natural Law, of the State of Nature, and so on, which are so important in the later writers, are medieval doctrines. It was not indeed till Rousseau in the *Contrat Social* restored the more organic conception

of the state, and till the beginnings of the historical criticism of institutions, that we began to recover the standpoint of the earlier Greek philosophy, and it may be said with some truth that the police theory of the state as it was represented in the English Radical tradition, and developed by Herbert Spencer, is simply a survival of this conception.

We may then be inclined to ask, whether there were no specifically Christian conceptions, presented by the Fathers and developed in the Middle Ages. There are, I think, two, which have exercised a great influence in the medieval and in the modern world.

The first is the conception of the divine character of political authority. We shall all remember the famous phrase of St. Paul, "Let every soul be in subjection to the higher powers: for there is no power but of God; and the powers that be are ordained of God." Great and fateful words; for they represent on the one side a most profound conception of the nature of political society, and on the other, they have been used as the foundation of the most curious perversion of the conception of authority known to the modern world. There can be little doubt as to what St. Paul meant. He had to correct certain anarchical tendencies in the Christian society which appeared in the apostolic churches, tendencies connected with the characteristic Pauline conception of the freedom of the sons of God from the bondage of the law, tendencies which have reappeared from time to time in Christian history, as for instance in the Anabaptism of the sixteenth century. St. Paul sought to correct these by asserting the function of the state as the minister of the divine justice. In certain of the great Fathers, especially in St. Gregory the Great, this conception was transformed into the doctrine of the absolute and unquestionable authority of the monarch. For St. Gregory interpreted these words under the influence of certain Oriental conceptions of monarchy, which find expression in some parts of the Old Testament, and especially in the Books of Samuel, where the "Lord's anointed" is conceived of as invested with something of a divine sanctity.² There are some traces of a tendency towards this view in some of the later classical writers, as for instance in Seneca's treatise *De Clementia*³ and in the banal phrases of Horace's political odes. But I think that substantially this conception represents an Orientalism imported into the western world by some of the Christian Fathers; by some, I say, for it is clear that others, notably St. Ambrose and St. Isidore of

² Cf. St. Gregory the Great, *Libri Moralium*, XXII. 24; *Reg. Past.*, III. 4.

³ Cf. Seneca, *De Clementia*, I. 1-7.

Seville,⁴ represent the true meaning of St. Paul's phrases. This perversion of St. Paul's principle, in spite of the great authority of St. Gregory the Great, has little importance in the Middle Ages, but with the appearance of the absolutist conception of sovereignty in the fourteenth and fifteenth centuries, it became important, and in the seventeenth century it played an important part in the most civilized of European countries, and it still survives to some extent in those European countries which lie toward the East.

The second great principle which may be called distinctively Christian, is the conception of the independence or autonomy of the spiritual or religious life. The conception of the distinction between Church and State, and of the independence of the religious society, has been developed under the influence of Christianity. It would indeed be a serious misconception, if we were to regard this as arising exclusively out of Christian principles. I think that it is clear that we have here an aspect of the influence exercised by that gradual apprehension of personality or individuality, which we can trace both in the later parts of the Old Testament and in the post-Aristotelian philosophical theory.

It would of course be impossible here to discuss seriously the significance of this new element in civilization. But I suppose that no student of the history of medieval and modern civilization can fail to see its immense importance. For men found themselves now under the control of two great systems of organization of life, subject to two systems of law, not one only, to two sets of authorities, not one only. The great conflict of Church and State in the Middle Ages cannot be seriously studied or justly interpreted unless we begin by recognizing the immense significance of the circumstances out of which it arose. I do not think there can be any doubt about the theory of Church and State which was normal in the Middle Ages, that is, that Church and State were each supreme in its own sphere, each derived from God, each justly claiming the obedience of its members in its own sphere, independent of each other within that sphere. It is however true that the definition of their respective spheres was a matter of infinite difficulty, and that each did in turn frequently come to exercise authority in the sphere of the other, and that finally this brought about the great conflict which filled Europe with clamor and confusion from the eleventh to the end of the thirteenth century. How far the claim to supremacy which was made in his later years by Hildebrand represented the normal principle, or the systematic policy of the papacy, I cannot here discuss.

⁴ Cf. St. Ambrose, *Exp. S. Lucae*, IV. 5; St. Isidore of Seville, *Etym.*, IX. 3; *Sent.*, III. 47-52.

The problem of the relation of these two great aspects of human life was not settled in the Middle Ages, indeed it may very fairly be said that it has not been finally settled even in our time.

So far we have been considering some of those elements of medieval theory which belong to the tradition of the last centuries of the ancient world, as they were transmitted to the Middle Ages in the writings of the great Fathers. We must now consider some aspects of medieval theory, as they arose from the characteristics of the new societies, the new states, which grew up on the ruins of the Western Empire, and from the conditions under which these new political organizations took shape. That is, we must consider the principles implicit in the Teutonic constitutions and in the feudal organization of society. It would be absurd to attempt to trace in a few words the development of the constitutional machinery of medieval societies, but I think it is not impossible to say a few words about the ideas which are implicit in this process, and which came to expression in the political literature from the ninth to the thirteenth centuries.

The first great principle which seems to me to lie behind the whole structure of medieval society is this, that political authority is the authority of the whole community. The great representative machinery in which this was finally embodied, represents one of the greatest achievements of civilization, and is a perpetual monument of the practical political genius of the Middle Ages. This development would have been impossible, as its appearance would be unintelligible, if its foundations had not been laid deep in the principles of medieval society, and especially in the principle that all authority is the authority of the community. This principle is implicit in two great practical facts of medieval society, the first that law is the law of the community, the second that the administrative organs of the community, if we may use a modern phrase, derive their authority from the consent of the community.

I think that I shall have the assent of all students of medieval history when I say that the notion of a legislative authority vested in the king or emperor, so far as it exists at all, belongs only to the latest period of the Middle Ages, and may be traced in part at least to the appearance of new influences, with which I shall have to deal presently.

In the earlier Middle Ages it may indeed be said that there is no such thing as a legislative authority at all. The law of the community is strictly speaking nothing but the traditional custom of the community, and legislative acts are only declarations of custom.

As the changing conditions of medieval life made modifications of this necessary, and when finally new laws had to be made, such action was taken reluctantly and hesitatingly and could only be taken by the whole community. "Kings and the servants of the commonwealth have laws by which they must rule . . . they have the *capitula* of the Christian kings and their ancestors, which they lawfully promulgated with the general consent of their faithful people".⁵ "Law is made by the consent of the people and the ordinance of the king".⁶ These phrases of Hincmar and of the *Edictum Pistense* are not mere phrases, but do actually represent the principle of early medieval society. And when the draughtsmen of Edward I. audaciously appropriated the phrase of the Roman law, "Quod omnes tangit, ab omnibus approbetur",⁷ they were only finding a convenient phrase under which they might express the fundamental principles of the developed constitutionalism of the thirteenth century.

The fact that the administrative organization of the community derives its authority from the consent of the whole community, is embodied in the rule that there is no succession to kingship or Empire without the consent of the community. It would I think be incorrect to take the elective method of the Empire as normally representing the succession to medieval kingship, but this would be much nearer the truth than to say that succession was a matter of strict hereditary right.

It is, I venture to think, out of this principle of the community as the source of authority that there arose in the Middle Ages that great conception whose significance we are now only beginning to understand, now that the controversy over the mere phrase has passed away, the conception of the authority of the ruler or administrator as resting upon a contract or agreement between the ruler and the people. The contractual theory, and the representative machinery of government, form the substance of the political inheritance of the modern world from the Middle Ages.

This principle may have been anticipated occasionally in ancient literature, as for instance in Plato's *Laws*,⁸ but, as far as I can make out, the medieval and modern conception has no continuity with such isolated speculations. It does on the contrary seem to me quite clear that it arose out of the principles implicit in certain great institutions and ceremonies of the Middle Ages, and especially that it was implicit in the forms under which one ruler succeeded

⁵ Hincmar of Rheims (ninth century), *De Ordine Palatii*, 8.

⁶ *Edictum Pistense* (864 A. D.), 6.

⁷ Summons to Parliament of archbishop and clergy, 1295 A. D.

⁸ Plato, *Laws*, III. 684.

another. It is in the reciprocal oaths, of justice and the administration of the law on the one side, and of obedience on the other, that we have to find the source of the theory of an agreement or contract between the ruler and the ruled. When Manegold in the eleventh century urged that the ruler who behaves tyrannically is justly deposed because he has violated the *pactum* under which he was appointed,⁹ he was only throwing into concrete phrase the principle which underlies the medieval conception of government. The true king is he who governs justly and according to law; if he ceases to do that, he has forfeited all claim to his authority.

It may seem paradoxical to say it, but I do not myself think it can be doubted that the contractual conception of authority which is implicit in the new constitutions, is also the fundamental principle which lies behind the developed feudal system. It is no doubt true that there are other elements in feudalism. Whether we attach importance to the tradition of the *comitatus* or follow M. Flach in his interesting theory of the blood-brotherhood, we shall recognize that in its earlier stages at least the feudal relation had been one of personal devotion and loyalty, and something of this element remained to the end, and is reflected especially in the epic poetry. But the feudalism of the law books is a very different thing. Even where the literary person would perhaps naturally look for the romantic element of medievalism, in the law books of the kingdom of Jerusalem, it is quite clear that the feudal relation was almost wholly a contractual one. The vassal was no doubt under obligation to render certain services to his lord, but only on the condition that the lord discharged his obligations to the vassal, and any failure to do this relieved the vassal from his obligations, and even imposed upon the whole body of the vassals the obligation of refusing service to the lord until he had fulfilled his duties.¹⁰ And it is important to remember that it was the High Court, consisting of all those who held directly from the king, which was to decide in cases of dispute between the king and his vassals as to their respective right and duties.¹¹ The phrases are not the same as those of Manegold, but the principle is the same, and the principle is that all ordered society rests upon the agreement to observe and maintain the law.

Such then are the principles of the political theory of the Middle Ages which arose out of the traditions and conditions of medieval society, principles, that is, which belonged not to the inheritance

⁹ Manegold, *Ad Geberhardum*, 30.

¹⁰ *Assizes of Jerusalem*, Philip of Novara, 52.

¹¹ *Assizes of Jerusalem*, Jean d'Ibelin, 193; Philip of Novara, 47.

from the ancient world but were native to the Middle Ages. We have finally to ask how far these conceptions were modified by new influences which came with the revived study of the literary remains of antiquity, with the new systematic study of the Roman jurisprudence in the twelfth century, and with the recovery of the Aristotelian political theory in the thirteenth century.

In one respect the study of the Roman jurisprudence only confirmed the tradition of the Teutonic societies. For as the Bologna civilians understood the Roman jurisprudence there is one, and only one, ultimate source of civil law and that is the Roman people. If the emperor has legislative authority, it is only because the Roman people have conferred upon him this authority; his authority is that of a vicar of the people.¹² They draw out this particular judgment into a general principle, when they maintain that it is always the *Universitas* which makes laws for its members; the *Populus* or *Res publica* command in virtue of the authority of the *Universitas*.¹³ The general principle of the nature of political authority is the same as that represented by the constitutional tradition of the Middle Ages. In the application of this general principle, however, there did arise among the civilians a theory of a new and revolutionary nature. For in the Roman jurisprudence the people have invested the emperor with their legislative authority, he was normally the legislator, and Justinian in one place at least claims that he was the sole legislator.¹⁴ And some of the great civilians of Bologna maintained that the people had thus completely and finally parted with their authority, so that even their custom had lost its power of making and abrogating laws.¹⁵ Here we have undoubtedly a new and revolutionary principle whose far-reaching consequences can only be properly studied in relation to the political developments of Europe from the fourteenth to the seventeenth centuries, a principle which has a very close relation to the rise of the absolutisms of the Renaissance. In the Middle Ages proper I do not think that it can be said that this principle exercised any large influence, and it must be remembered that some of the most famous of the Bologna doctors refused to recognize this conclusion as legitimate. Bulgarus and John Bassianus maintained the continuing authority of the custom of the Roman people, while Azo and Hugolinus bluntly denied that the Roman people had ever parted with their authority, in such a sense that they could not resume it.¹⁶

¹² Irnerius, *Summa Trecensis*, I. 14, 3; Placentinus, *Summa Institutionum*, I. 2.

¹³ Cf. Irnerius, *De Aequitate*, 2; Irnerius, *Glosses on Digest. Vetus*, Digest I. 3, 1; Bulgarus, *Comm. on Digest*, L. 177, 176.

¹⁴ *Cod.*, I. 14, §12: 3 and 4.

¹⁵ Irnerius, *Gloss. on Dig.*, I. 3, 32; Placentinus, *Summa Inst.*, I. 2; Roger, *Summa Codicis*, I. 12.

¹⁶ Azo, *Summa Codicis*, I. 14, 8; Hugolinus, *Distinctiones*, Dist. 148, 34.

It was not till the thirteenth century that the political theory of Aristotle as a whole was known to the medieval writers, that is, known directly; something of it they were acquainted with through Cicero and the Fathers. The influence of the Aristotelian *Politics* upon St. Thomas Aquinas was of great importance, and especially in that it led St. Thomas to repudiate the traditional philosophical and patriotic theory of government as conventional and not natural. St. Thomas following Aristotle maintained that political society is not a consequence of the Fall, a convention unnatural in itself intended to correct the consequences of men's vices, but on the contrary a natural institution arising out of the essential characteristics of human nature.¹⁷ But this recovery of the profound organic conception of Aristotle had little influence beyond St. Thomas himself. The traditional theory of the conventional and mechanical character of political society was too firmly fixed to be shaken even by the immense influence of St. Thomas, and it continued to dominate European political theory until, as I have already said, the genius of Rousseau¹⁸ finally restored to Europe the organic conception of the state.

This brief survey of the main sources of the political ideas of medieval society, will I think suffice to indicate that their conceptions were by no means homogeneous. For these conceptions in part represented the traditional and literary inheritance from the philosophical schools of the ancient world, in part the influence of Christianity, while in part they were related to the actual temper and the concrete facts of medieval society.

The speculative framework of medieval political theory was always the philosophical conception of the distinction between Nature and Convention. It is partly due to a defective apprehension of this fact that so many paradoxical phrases of these centuries have been misunderstood. When a medieval writer says of some institution that it has its origin in vice or sin, he does not mean that it is in itself vicious or sinful. He may be using his phrase controversially, to throw some discredit upon an institution with which for the moment he is at issue. But he does not really mean anything more than that it is an adjustment to the actually vicious or infirm nature of man and does not represent man's ideal character. How far this speculative framework was organically related to the substantial content of medieval political theory I cannot now consider. It was not till the thirteenth century that men attempted

¹⁷ Cf. St. Thomas Aquinas, *De Regimine Principum*, I. 1; *Summa Theologica*, I. qu. 96, arts. 3 and 4.

¹⁸ Cf. Rousseau, *Contrat Social*, I. 8.

to form a system of political thought, and to deal with this question would require a detailed consideration of the political philosophy of the great schoolmen like St. Thomas Aquinas.

There is then one whole side of the political theory of the Middle Ages which may be thought to have little direct connection with the actual life and movement of the time. It is very different with some of its other elements, which seem to me to deserve consideration as representing new and permanently important elements of life as well as of theory. I should cite specially and before all others the principle of the independence of the moral and spiritual life as embodied in the Church, the new form of the conception of individuality or personality, and next the principle of the contractual nature of political society as embodying the conception of the supremacy of law and of the community as a whole, over all the organs of government. We have here conceptions which are organically related to the actual conditions and principles of medieval society.

The great conflict of Church and State, which was of such importance in the Middle Ages, did not indeed lead directly to any final solution of the relation between the individual and society: it would be impossible to state in any very precise terms the actual upshot of the great conflict which began with Hildebrand and ended with Boniface VIII., but the great struggle only assumed other forms and the principle of the autonomy of the spiritual life was triumphant in the modern system of toleration and religious equality. It may indeed be said that the great churchmen builded better than they themselves knew, for the whole meaning of the struggle was not to be apprehended till the Church itself realized that the independence of the spiritual life transcends the authority of even the religious society.

And again the contractual theory of political authority was in the Middle Ages no abstract speculation, but the embodiment of the vital principle of political liberty; the political societies of the Middle Ages were societies of free men. Men were content to claim that they should be governed by law, but that law was the expression both of the will and of the character of society. The community itself was the source of all political authority, and the ruler was God's representative because the community and its authority represented the divine ordinance.

In these principles we have the most important elements of the political life of modern civilization. The Middle Ages had clearly developed the conception of political liberty as being in its essence nothing else than the self-government of the community, and in the

thirteenth century this created for itself a permanent form in the method of representative government. It has taken six centuries to develop this into the normal working system of civilized society, but the principle on which it rests and the machinery through which the principle works, and through which alone, so far as I can see, it ever can work, were apprehended and developed in the Middle Ages.

It is however true that this method of political liberty would be of very little significance if it were not controlled by the principle of individual or personal liberty. It is the main task of modern civilization to make this also real, to secure the freedom of the individual life, to emancipate the infinite varieties of personality. In the Middle Ages this was represented by the great principle of the freedom of the spiritual society, the principle that there are elements in human life which stand and must forever stand outside of the control of the political organization. The apprehension of this principle was no doubt incomplete, but in itself it was vital and has proved triumphant even over the forms which once protected it.

The modern world is very different from the medieval world, but it is continuous with it: the forms of its life and thought may at first sight seem to us strange and unfamiliar, but as we look more closely we see the human spirit living and making its way through the vast and complex tangle of life, and this spectacle is one which may well teach us respect for the past, patience with the present, and hope for the future.

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